

Believe

WIRELESS BROADBAND

March 27, 2013

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, D 20554

Re: Request for Waiver-USAC late filing fees
Filer ID# 829128

Dear Sirs:

Believe Wireless would like to appeal to have the USAC late filing fees waived or adjusted.

Believe Wireless is a small fixed wireless Internet service provider in the Baltimore area. In 2007 Believe started offering VoIP service through a reseller to help generate additional revenue.

Believe Wireless is currently classified as De Minimis status with USAC. Last year our total annual revenue for VoIP was \$22,365.30.

When we first started offering VoIP service we were just reselling another company's VoIP service and on the bill of the company all of the required fees were charged to us for the service. It was our erroneous understanding that by paying the fees, we were in compliance.

In 2011, we were informed through our WISP Association that the FCC was now requiring all VoIP resellers to file the FCC 499. We immediately requested our filing number from USAC and started the process of filing the proper forms for the current year and previous years. It was and is our intent to comply with the law.

As soon as we received the notice about the late filing fee we immediately requested to have these fees waived by USAC. Our letter was sent on May 29 2012. We did not receive a response back from USAC until February 4 2013.

We respectfully are asking that the late filing fees be waived or adjusted. We appreciate any assistance in this matter.

Sincerely,



Marian Huller
Vice President
Believe Wireless Broadband
MHuller@believebroadband.com

Believe Wireless, LLC.

**9722 Groffs Mill Drive • Suite 112 • Owings Mills, MD 21117
(410) 902-0070**

customersupport@usac.org

Filer 499 ID 829128

Marian Huller <mhuller@believebroadband.com>
To: customersupport@usac.org

Wed, Mar 27, 2013 at 3:21 PM

Ken-

I am questioning the charge on our account for \$8,400. On December 20, 2011 we filled our first 499 A form with USAC. We originally were under the understanding that we were a intra connected VoIP provider and were just imposed the action by USAC that we needed to file.

Once Linus at USAC received our first filing he informed me that we were a inter connected VoIP provider and we needed to correct our form. I did this and we resent the form on January 30, 2012. Once Linus received this form he than told me that we needed to submit forms for prior years. At this time he did not inform me that time was of the essence and we were being charged a \$100 per month per form. I mailed him 2007-2011 on March 22,2012.

I am now being told that we are being sanctioned because we did not file the previous forms until March of 2013.

Can you please look into this and let me know what happened to all of the prior forms I mailed in to USAC.

Also, time is of the essence because I need to set up payment arrangements for the amount due. I sent a letter of appeal for these charges and a decision was not made until February 4, 2013,almost a year later. So I was told that I would have a response in 24 hours.

Thank you for your assistance in this matter.

Marian Huller
Vice President
Believe Broadband
Tel: 410-902-0070 ext.123
www.believebroadband.com



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Administrator's Decision on Contributor Appeal

By Certified Mail

February 4, 2013

Ms. Marian Huller
Vice President
Believe Wireless LLC
9722 Groffs Mill Drive, Suite 112
Owings Mills, MD 21117

Re: Believe Wireless (Filer ID 829128)
Letter of Appeal dated May 29, 2012

Dear Ms. Huller:

The Universal Service Administrative Company (USAC) has completed its evaluation of the appeal you submitted on behalf of Believe Wireless, LLC (Believe), dated May 29, 2012. The appeal requests that USAC waive the late filing fees related to Believe's 2010 and 2011 FCC Forms 499-A. As discussed in more detail below, USAC hereby denies Believe's appeal.

Decision on Appeal: Denied.

Federal Communications Commission (FCC or Commission) regulations require that telecommunications carriers file an annual FCC Form 499-A. In addition, carriers are required to file quarterly FCC Forms 499-Q, unless they meet the *de minimis* exemption.¹ USAC relies on projected revenue for the upcoming quarter as reported on the FCC Form 499-Q to bill each carrier its federal universal service contribution obligations. USAC

¹ See 47 C.F.R. § 54.706(a) ("Entities that provide interstate telecommunications to the public, or to such classes of users as to be effectively available to the public, for a fee will be considered telecommunications carriers providing interstate telecommunications services and must contribute to the universal service support mechanisms."). See also, 47 C.F.R. § 54.711(a) ("The Telecommunications Reporting Worksheet sets forth information that the contributor must submit to the Administrator on a quarterly and annual basis."); 47 C.F.R. § 54.708 (providing that "[i]f a contributor's contribution to universal service in any given year is less than \$10,000 that contributor will not be required to submit a contribution or Telecommunications Reporting Worksheet for that year unless it is required to do so by our rules governing Telecommunications Relay Service, numbering administration, or shared costs of local number portability"). We note that regulations governing the Telecommunications Relay Service require all interstate telecommunications service providers to file at least an annual Telecommunications Reporting Worksheet (FCC Form 499-A). 47 C.F.R. § 64.604(c)(5)(iii)(A-B). Regulations governing local number portability and number administration require all telecommunications carriers providing service in the United States to complete an FCC Form 499-A. 47 C.F.R. §§ 52.32(b) and 52.17(b).

relies on the annual FCC Form 499-A to reconcile billings for the previous year, as projected on the FCC Forms 499-Q.²

The FCC has stated that timely filing of the FCC Form 499 is an essential administrative requirement that serves the public interest and is a requirement on which the FCC relies in order to determine the quarterly universal service contribution factor.³ The Commission's rules state that the Administrator shall assess a monthly remedial sanction if a contributor is more than 30 days delinquent in filing an FCC Form 499.⁴ The late filing fee is the greater of \$100 per month or the amount derived when a rate of interest equal to the U.S. prime rate plus 3.5 percent is assessed on the amount due.⁵ In all cases, it is the carrier's obligation to ensure filings are made accurately and in a timely manner.

The 2010 FCC Form 499-A was due on April 1, 2010.⁶ The 2011 FCC Form 499-A was due on April 1, 2011.⁷ USAC's records indicate that Believe submitted its 2010 FCC Form 499-A on March 28, 2012 and its 2011 FCC Form 499-A on January 31, 2012.⁸ As a result, USAC invoiced Believe \$2,400 in late filing fees associated with the 2010 FCC Form 499-A and \$1,000 in late filing fees associated with the 2011 FCC Form 499-A, as reflected on Believe's May 2012 and June 2012 invoices.

On May 29, 2012, Believe submitted an appeal letter to USAC seeking a waiver of the late filing fees related to its 2010 and 2011 FCC Forms 499-A. The appeal letter states that Believe began offering Voice over Internet Protocol (VoIP) service through a reseller in calendar year 2007. The appeal letter further states that Believe was informed last year that the FCC "was now requiring all VoIP resellers to file the FCC [Form] 499." The appeal letter also states that once notified that VoIP resellers were required to file the FCC Form 499, Believe "immediately requested [its] filing number from USAC and started the process of filing the proper forms for the current year and previous years." According to Believe, due to its small size the filing process is very time consuming and the company had not budgeted for an invoice the size of the May 2012 invoice. Believe states that the late filing fees and May 2012 invoice will "impact [its] company dramatically especially in these difficult economic times." Believe seeks a waiver of the

² See generally 47 C.F.R. Part 54.

³ *In the Matter of Request for Review by Atlantic Digital, Inc. of Decision of Universal Service Administrator*, CC Docket No. 96-45, Order, DA 05-520, 20 FCC Rcd. 4224, 4225-26, ¶¶ 3, 5 (2005).

⁴ 47 C.F.R. § 54.713. See also *In the Matter of Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, WC Docket No. 05-195, et al., Report and Order, FCC 07-150, 22 FCC Rcd. 16372, 16379, ¶ 14 (2007) (*Comprehensive Review Order*).

⁵ *Id.*

⁶ See Instructions to the Telecommunications Reporting Worksheet, FCC Form 499-A, at 10 (2010) (*2010 Instructions*).

⁷ See Instructions to the Telecommunications Reporting Worksheet, FCC Form 499-A, at 5 (2011) (*2011 Instructions*).

⁸ USAC's records show that Believe first attempted to register with USAC in December 2011, using the 2011 FCC Form 499-A; however, Believe's first form was rejected because it did not contain an officer signature. Believe successfully registered in January 2012, when it submitted a second 2011 FCC Form 499-A containing an officer signature.

Ms. Marian Huller
Believe Wireless, LLC
February 4, 2013
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late filing fees assessed by USAC related to the company's 2010 and 2011 FCC Forms 499-A.

On August 2, 2012, USAC received a second appeal letter from Believe that stated that the company received a bill dated July 20, 2012 in the amount of \$3,400.⁹ The letter referenced Believe's first appeal letter and stated that when Believe did not receive a response to the first letter it contacted USAC and was directed to Linus Chapman, USAC Financial Analyst. According to the letter, Mr. Chapman stated that Believe had sent its appeal to the wrong department and that all appeals had to be completed online. Believe states that it went online, but there was no place to file an appeal. According to the second appeal letter, after further investigation, Believe found the USAC address to which it sent the second appeal. The second appeal letter further states that Believe sent its first FCC Form 499-A ~~reporting~~ reporting revenue on December 20, 2011. According to Believe, the company received a call from Mr. Chapman stating that the FCC Forms 499-A the company submitted to USAC were incorrect, so the company resent the forms on March 22, 2012. In its second appeal letter, Believe reiterates that the fines and amounts it is being assessed are detrimental to the business.

On May 29, 2012, the same date that Believe filed its initial appeal letter with USAC, Believe filed with the FCC a request for review regarding the late filing fees associated with company's 2010 and 2011 FCC Forms 499-A.¹⁰ The request for review filed with the FCC contained the same request for waiver of late filing fees raised by Believe in its first and second USAC appeal letters.¹¹ The FCC issued a public notice regarding Believe's request for review on June 21, 2012.¹² On September 19, 2012, Believe withdrew its FCC appeal¹³ and on October 4, 2012, the FCC granted Believe's withdrawal request.¹⁴ Because this matter is no longer pending with the FCC, USAC is hereby issuing a response to Believe's first and second USAC appeal letters.

⁹ The letter was dated July 27, 2012. USAC notes that while the July invoice did show a past due balance of \$3,400 related to late filing fees from Believe's 2010 and 2011 FCC Forms 499-A, this amount was carried forward from Believe's May 2012 and June 2012 invoices. Specifically, the May 2012 invoice contained \$2,400 of late filing fees related to Believe's 2010 FCC Form 499-A and the June 2012 invoice contained \$1,000 of late filing fees related to Believe's 2011 FCC Form 499-A.

¹⁰ Letter from Marian Huller, Believe Wireless, LLC, to Office of the Secretary, Federal Communications Commission, WC Docket No. 06-122 (May 29, 2012). USAC notes that the FCC stamp on the letter indicates that the FCC received the appeal on June 4, 2012.

¹¹ *Id.*

¹² See Wireline Competition Bureau Seeks Comment on Believe Wireless' Request for Review of a Decision by the Universal Service Administrative Company, *Public Notice*, DA 12-976 (WCB rel. June 21, 2012).

¹³ See *In the Matter of Universal Service Contribution Methodology Request for Review of a Decision of the Universal Service Administrator by Believe Wireless, LLC*, WC Docket No. 06-122, Order, DA 12-1590, 27 FCC Rcd 12161 (rel. Oct. 4, 2012).

¹⁴ *Id.*

FCC rules require persons and entities having business with the Commission to familiarize themselves with the rules and regulations that are relevant to their business.¹⁵ For carriers, this includes familiarizing themselves with the FCC Form 499-A and its corresponding instructions, including the requirement to timely file the form. It is the responsibility of the entity with the reporting obligation to timely file its FCC Forms 499 so that USAC may accurately project the contribution base and the contribution factor, as well as assess the entity's federal universal service contribution obligations.¹⁶ USAC is not permitted to waive late filing fees unless there is an error on USAC's part.¹⁷

Believe indicated on its 2010 FCC Form 499-A (reporting calendar year 2009 revenues) that the company is an interconnected VoIP and wireless data provider.¹⁸ In its appeal letter, Believe indicated, and USAC confirmed based on the revenues reported on the 2010 FCC Form 499-A, that the company was a *de minimis* filer during calendar year 2009.¹⁹ Pursuant to the Commission's *Contribution Methodology Order*, interconnected VoIP providers that qualify for the *de minimis* exemption need not contribute to the federal universal service support mechanisms.²⁰ However, such providers must still register with the Commission and file the FCC Form 499-A (though they need not file the FCC Forms 499-Q).²¹ Both the FCC's *Contribution Methodology Order* and the FCC's rules clearly require *de minimis* interconnected VoIP providers to register and file the

¹⁵ 47 C.F.R. § 0.406; accord *In the Matter of Universal Service Contribution Methodology Request for Review of a Decision of the Universal Service Administrator by Manitowoc Public Utilities*, WC Docket No. 06-122, Order, DA 11-566, 26 FCC Rcd 4925, 4926, ¶ 4 (2011).

¹⁶ *Comprehensive Review Order*, 22 FCC Rcd 16372, 16378, ¶ 12. See also, *In the Matter of Requests for Review of Decisions of the Universal Service Administrator by Achilles Networks, Inc., et al.*, WC Docket No. 06-122, Order, DA 10-751, 25 FCC Rcd 4646, 4648-49, ¶ 7 (2010).

¹⁷ See USAC Website, Billing Disputes, <http://usac.org/cont/about/billing-disputes.aspx> (last visited Jan. 30, 2013).

¹⁸ See Believe 2010 FCC Form 499-A, Line 105.

¹⁹ *Id.* at Lines 404.5 and 420.

²⁰ See *In the Matter of Universal Service Contribution Methodology, Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and that Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format, IP-Enabled Services*, WC Docket Nos. 06-122 & 04-36, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116 & 98-170, Report and Order and Notice of Proposed Rulemaking, FCC 06-94, 21 FCC Rcd 7518, 7548-49, ¶ 61 (2006) (*Contribution Methodology Order*). See also, 47 C.F.R. § 54.708.

²¹ See *Contribution Methodology Order*, 21 FCC Rcd 7518, 7549, ¶ 61 (“[E]very interconnected VoIP provider that has not already registered with the Commission (and designated an agent for service of process) must complete and file an FCC Form 499-A with blocks 1, 2, and 6 completed. Providers should refer to the instructions on the revised FCC Form 499-A for additional details on how to complete this registration requirement.”). See also, 47 C.F.R. § 54.708 (“[A]ll interconnected VoIP providers, including those whose contributions would be *de minimis*, must file the Telecommunications Reporting Worksheet.”); 2010 *Instructions* at 5.

FCC Form 499-A.²² Moreover, the instructions to the 2010 FCC Form 499-A state that interconnected VoIP providers must file an annual FCC Form 499-A, even if they qualify for the *de minimis* exemption.²³ As previously discussed, the 2010 FCC Form 499-A had a due date of April 1, 2010. Because Believe did not file its 2010 FCC Form 499-A by the April 1, 2010 due date and there was no error on USAC's part, Believe's request to waive the \$2,400 in late filing fees assessed as a result of the late-filed form is hereby denied.

Believe indicated on its 2011 FCC Form 499-A (reporting calendar year 2010 revenues) that the company is a non-interconnected VoIP and wireless data provider.²⁴ In contrast to Believe's 2010 FCC Form 499-A, its 2011 FCC Form 499-A reports no revenues.²⁵ Believe timely filed its 2012 FCC Form 499-A, which it timely revised on June 29, 2012. On both the original and the revised forms, Believe indicated that it is a non-interconnected VoIP provider and a wireless data provider.²⁶ Despite indicating on the 2012 FCC Forms 499-A that it was a non-interconnected VoIP provider, Believe reported revenues on Lines 404.5 (Interconnected VoIP offered independent of a broadband connection) and 420 (Gross universal service contribution base amounts) of both its initial²⁷ and revised forms.²⁸ Because the information reported on Believe's forms was inconsistent (i.e., on the 2010 FCC Form 499-A, Believe stated it was an interconnected VoIP provider/wireless data provider and reported revenues, on the 2011 FCC Form 499-A Believe stated it was a non-interconnected VoIP provider/wireless data provider and reported no revenues, and on the 2012 FCC Forms 499-A, Believe stated that it was a non-interconnected VoIP provider/wireless data provider, but reported interconnected VoIP revenues) USAC contacted you by phone on October 8, 2012 regarding Believe's appeals.²⁹

During the October 8, 2012 call with USAC, you stated that Believe is primarily an Internet service provider. With respect to Believe's VoIP services, you stated that Believe is a reseller of VoIP services, Believe connects calls to Bandwidth.com, Believe's VoIP products do not transit the phone network and, thus, Believe provides non-interconnected VoIP services. USAC does not concur with Believe's assertion as stated in the October 8, 2012 call with USAC, that Believe is a non-interconnected VoIP

²² *Contribution Methodology Order*, 21 FCC Rcd 7518, 7548-49, ¶ 61 ("Interconnected VoIP providers that satisfy [the] *de minimis* exemption need not contribute to the Fund. We find, however, that it is appropriate to require all providers of interconnected VoIP services - including those that satisfy the *de minimis* exemption - to register with the Commission in order to facilitate our enforcement of the obligations the Commission has imposed in this Order on providers of interconnected VoIP services."). See also, 47 C.F.R. § 54.708.

²³ 2010 Instructions at 5.

²⁴ See Believe 2011 FCC Form 499-A, Line 105.

²⁵ See generally, Believe 2011 FCC Form 499-A.

²⁶ See Believe 2012 FCC Form 499-A and Believe Revised 2012 FCC Form 499-A, Line 105.

²⁷ See Believe 2012 FCC Form 499-A, Lines 404.5 and 420.

²⁸ See Believe 2012 FCC Form 499-A, Lines 404.5 and 420.

²⁹ Present on the call were Marian Haller, Vice President, Believe, Donna Lauer, USAC Senior Financial Analyst and Kristin Berkland, USAC Assistant General Counsel (Oct. 8, 2012).

provider. Based on information provided by Believe to USAC on the October 8, 2012 call, information posted on Believe's website, and information posted on the FCC's website, USAC has determined that Believe is a reseller of VoIP service. Specifically, Believe has stated that it offers VoIP service through its reseller Bandwidth.com. Based on information provided on the FCC website,³⁰ Bandwidth.com's principal business is the sale of interconnected VoIP services. The fact that Believe does not always use the PSTN to transmit voice traffic to Bandwidth.com's facilities does not mean that Believe is providing non-interconnected VoIP services. The FCC has consistently stated that a company must look at the overall product being provided to a customer to determine the nature of the product.³¹ Because Believe is reselling interconnected VoIP services that it purchases from Bandwidth.com, Believe is providing interconnected VoIP services to its customers. Believe has not provided USAC with any information or documentation to demonstrate that it does not: (1) enable real-time, two-way voice communications; (2) require a broadband connection from the user's location; (3) require Internet protocol compatible customer premises equipment (CPE); and (4) permit users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network (i.e., meet the definition of an interconnected VoIP provider).

Because USAC was able to determine that Believe was an interconnected VoIP provider during calendar year 2010, Believe was required to timely file the 2011 FCC Form 499-A, even though the company qualified for the *de minimis* exemption.³² As stated above, the 2011 FCC Form 499-A had a due date of April 1, 2011. Because Believe did not file its 2011 FCC Form 499-A by the April 1, 2011 due date and there was no error on USAC's part, Believe's request to waive the \$1,000 in late filing fees assessed as a result of the late-filed form is hereby denied.

USAC notes that on each of the FCC Forms 499-A filed by Believe, the company indicated that it began providing telecommunications services in January 2007.³³ Based on the date that Believe began providing telecommunications services, Believe should have registered with USAC in calendar year 2007³⁴ and was required to file the 2008 and

³⁰ FCC Form 499 Filer Database, <http://apps.fcc.gov/cgb/form499/499a.cfm> (last visited Jan. 30, 2013).

³¹ *In the Matter of Petition for Declaratory Ruling that AT&Ts Phone-to-Phone IP Telephony Services Are Exempt from Access Charges*, WC Docket No. 02-361, Order, FCC 04-97, 19 FCC Rcd 7457 (2004),

³² 2011 Instructions at 4.

³³ See Believe 2010 FCC Form 499-A at Line 228; Believe 2011 FCC Form 499-A at Line 228; Believe 2012 FCC Form 499-A at Line 228; Believe Revised 2012 FCC Form 499-A at Line 228.

³⁴ See 47 C.F.R. § 64.1195(a) ("A telecommunications carrier that will provide interstate telecommunications service shall file the registration information described in paragraph (b) of this section in accordance with the procedures described in paragraphs (c) and (g) of this section."). See also, *Contribution Methodology Order*, 21 FCC Rcd 7518, 7549, ¶ 61 ("We find, however, that it is appropriate to require all providers of interconnected VoIP services – including those that satisfy the *de minimis* exemption – to register with the Commission to facilitate our enforcement of the obligations the Commission has imposed in this Order on providers of interconnected VoIP services. In order to fulfill this reporting requirement, every interconnected VoIP provider that has not already registered with the Commission (and designated an agent for service of process) must complete and file an FCC Form 499-A....Providers should refer to the

2009 FCC Forms 499-A (reporting revenues for calendar years 2007 and 2008, respectively) even though it qualified for the *de minimis* exemption.³⁵ Based on USAC's records, Believe filed its 2008 and 2009 FCC Forms 499-A on March 28, 2012. These forms were recently processed by USAC. USAC wishes to advise Believe that, as with its 2010 and 2011 FCC Forms 499-A, because the 2008 and 2009 FCC Forms 499-A were late-filed, the company will be assessed late filing fees associated with these forms from the date that the forms were due until the date on which the forms were originally filed.

USAC notes that it appears that Believe did not report the revenues associated with its wireless data product on any of its FCC Forms 499-A. The 2008 through 2012 FCC Form 499-A Instructions state that "Line 418 should include non-telecommunications service revenues on the filer's books....For example, information services offering a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications."³⁶ Based on the information provided by Believe during the October 8, 2012 call with USAC, the company's wireless data revenues are related to its provision of Internet access services. However, despite the fact that Believe indicated on its 2010 through 2012 FCC Forms 499-A that it is a wireless data provider, it did not report any revenues on Line 418 of its forms. Because of the anomalies in Believe's FCC Form 499-A reporting,³⁷ USAC will contact the company to discuss any revenue reporting questions Believe may have and to help facilitate the filing process.

With respect to the appeal information that Believe states it received from Mr. Chapman, USAC notes that it regularly directs filers that seek to appeal a USAC invoice to the USAC website, which contains detailed information regarding how to file an appeal.³⁸ Although USAC does not have a record of the conversation between Believe and Mr. Chapman, it is possible that a miscommunication occurred during which Mr. Chapman intended to direct Believe to the online requirements to file an appeal and/or Believe understood Mr. Chapman to be instructing the company to file its appeal online. Regardless, as discussed in this Administrator's Decision Letter, USAC has received and reviewed both Believe's first and second appeal letters.

instructions on the...FCC Form 499-A for additional details on how to complete this registration requirement.").

³⁵ *Contribution Methodology Order*, 21 FCC Rcd 7518, 7548, ¶ 60 ("Interconnected VoIP service providers will be required to file a completed FCC Form 499-A beginning on April 1, 2007."); Instructions to the Telecommunications Reporting Worksheet, FCC Form 499-A, at 5 (2008) ("Interconnected VoIP providers that meet the *de minimis* standard also must file this Worksheet (but need not submit the Form 499-Q.)" (2008 Instructions); Instructions to the Telecommunications Reporting Worksheet, FCC Form 499-A, at 5 (2009) (same as previous) (2009 Instructions).

³⁶ 2008-2010 Instructions at 29; 2011 Instructions at 20; 2012 Instructions at 19.

³⁷ As previously discussed: (1) on one FCC Form 499-A Believe stated that it was an interconnected VoIP provider, while on others Believe indicated that it was a non-interconnected VoIP provider; and (2) it appears that Believe may have failed to report its wireless data revenues altogether.

³⁸ See USAC Website, Program Integrity – Appeals, <http://www.usac.org/cont/about/program-integrity/appeals.aspx> (last visited Jan. 30, 2013).

The FCC, in its *Comprehensive Review Order*, directed USAC to assess late payment penalties against all universal service contributors that are more than 90 days delinquent in paying invoiced obligations, including late filing fees.³⁹ Failure to pay invoiced amounts when due will result in late charges being assessed on the amount outstanding.⁴⁰ Any debt more than 120 days old will be transferred to the United States Department of Treasury for collection.⁴¹ The USAC website explains that late payment penalties will not be waived unless the dispute is determined to be the result of a USAC error.⁴² The FCC has upheld USAC's pay and dispute procedure, finding that "[a]bsent enforcement of the pay and dispute procedure,...contributors may choose to engage in...nonpayment or underpayment of invoices with which they disagree, thereby harming the predictability of the fund."⁴³ USAC's website provides guidance that specifically advises contributors who intend to file appeals that they must keep their accounts current or risk receiving late payment fees.⁴⁴

USAC's records indicate that Believe failed to timely pay the late filing fees it was assessed related to its late filed 2010 and 2011 FCC Forms 499-A. As a result, the company incurred late payment penalties totaling \$244.40, as reflected on the company's January 2013 invoice. USAC wishes to advise Believe that it will continue to receive late payment penalties related to its 2010 and 2011 FCC Forms 499-A until its account is paid in full. In addition, if Believe fails to timely pay the late filing fees associated with its 2008 and 2009 FCC Forms 499-A, Believe will be assessed late payment penalties for those forms as well.

³⁹ *Comprehensive Review Order*, 22 FCC Rcd 16372, 16380-81, ¶ 16.

⁴⁰ 47 C.F.R. § 54.713(b).

⁴¹ A debt transfer process was implemented pursuant to the Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996) (DCIA). The DCIA requires, among other things, that federal agencies transfer debts delinquent over 180 days to the United States Department of Treasury (Treasury) for further collection action. The DCIA also allows agencies to transfer debts under 180 days to the Treasury. 47 C.F.R. § 1.1917(c).

⁴² See USAC Website, Billing Disputes, <http://usac.org/cont/about/billing-disputes.aspx> (last visited Jan. 30, 2013).

⁴³ *In the Matter of Universal Service Contribution Methodology Requests for Waiver of Decisions of the Universal Service Administrator by ComScape Telecommunications of Raleigh-Durham, Inc. and Millennium Telecom, LLC*, WC Docket No. 06-122, Order, DA 10-1050, 25 FCC Rcd 7399, 7401, ¶ 7 (2010); accord *In the Matter of Universal Service Contribution Methodology Emergency Request for Review of Universal Service Administrator Decision by Level 3 Communications, LLC et al.*, WC Docket No. 06-122, Order, DA 10-187, 25 FCC Rcd 1115, 1120, ¶ 9 (2010) (finding that the carrier "could have avoided incurring late fees, penalties, and interest charges from which it seeks relief by paying the full invoiced amount in compliance with USAC's 'pay and dispute' policy"); *In the Matter of Federal-State Joint Board on Universal Service Request for Review of Decision of the Universal Service Administrator by Global Crossing Bandwidth, Inc.*, CC Docket No. 96-45, Order, DA 09-1821, 24 FCC Rcd 10824, 10831 (2009) (explaining that "to ensure the sufficiency of the universal service fund, contributors are required to pay disputed invoices under the 'pay and dispute' policy" and finding that the carrier should have paid its disputed invoices while its appeal was pending with the FCC).

⁴⁴ See USAC Website, Program Integrity - Appeals, <http://www.usac.org/cont/about/program-integrity/appeals.aspx> (last visited Jan. 30, 2013).

Ms. Marian Huller
Believe Wireless, LLC
February 4, 2013
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If you wish to appeal this decision, you may file an appeal pursuant to the requirements of 47 C.F.R. Part 54, Subpart I. Detailed instructions for filing appeals are available at:

<http://usac-ctst145/cont/about/program-integrity/appeals.aspx>

Sincerely,

USAC

cc: Cheryl Collins, FCC Office Managing Director
Terry Cavanaugh, FCC Enforcement Bureau
Pamela Kane, FCC Enforcement Bureau
William Kehoe, FCC Enforcement Bureau
Vickie Robinson, FCC Wireline Competition Bureau
Erica Myers, FCC Wireline Competition Bureau



Filer 499 ID: 829128
Invoice Number: UBDI0000607147
Statement Date: 02/22/2013
New Balance: \$ 12,081.21
Payment Due Date: 03/15/2013
Amount Enclosed:

Mail Payment To:

Believe Wireless LLC
 Attention: Paul Dowling Jr
 9722 Groffs Mill Dr, Ste. 112
 Owings Mills, MD, 21117

Universal Service Administrative Company
PO Box 105056
Atlanta, GA 30348-5056

Address Change? See reverse side for instructions.

☐ If paying for multiple Filer 499 IDs, please check here and complete form on back.

Send top portion of statement with payment in enclosed envelope. Keep bottom portion for your records.

STATEMENT OF ACCOUNT

Date	Description	Charges	Credits
	Previous Balance	\$3,644.40	
02/15/2013	Interest & DCIA Penalties	\$36.81	
02/15/2013	Late Filing Sanction	\$8,400.00	
TOTAL OUTSTANDING USAC BALANCE AS OF 2/15/2013		\$12,081.21	

Transactions occurring after 02/15/2013 are not reflected on this statement.

Under the Debt Collection Improvement Act of 1996 (Pub. L. 104-134) (DCIA), your BALANCE DUE is a demand that you pay a DEBT owed to the United States on or before the DUE DATE. If the DUE DATE is non-business day, payment must be received the business day before that date. Any portion of the DEBT unpaid after the DUE DATE is a DELINQUENT DEBT, which may result in sanctions, including interest, penalties, and administrative charges. Failure to file a Telecommunications Worksheet may result in a late filing fee DEBT added to your BALANCE DUE. **Read the reverse of this Invoice for important information about those sanctions and your legal rights and obligations.**

Statement Date	Invoice Number	Filer 499 ID	Balance Due USAC
02/22/2013	UBDI0000607147	829128	\$ 12,081.21
FORM 499Q DATA This month's support mechanism charges were calculated using an FCC contribution factor of 0.161000 and the following revenue data: <div style="display: flex; justify-content: space-between;"> <div>November 2012 499Q</div> <div></div> </div> <div style="display: flex; justify-content: space-between;"> <div>120b</div> <div>\$3,628.77</div> </div> <div style="display: flex; justify-content: space-between;"> <div>120c</div> <div>\$0.00</div> </div> If the figures do not correspond with your records, please contact USAC Customer Service at 888-641-8722		PAYMENT INFORMATION All payments received (regardless of specific instructions) will be applied to your outstanding USAC balance in historical order as outlined in FCC order 07-150. Please remit ACH payments in a CCD+ format to ABA #071000039, Account #5590045653. All Wire Transfers should be sent to ABA #026009593, DDA (or Account) #5590045653. Payments must include your Company Name, Filer 499 ID, and Invoice Number to ensure timely posting.	



Filer 499 ID: 829128
Invoice Number: UBDI0000607147
Statement Date: 02/22/2013

DETAILED SUMMARY OF CHARGES AND CREDITS

SUPPORT MECHANISM CHARGES

Your monthly support mechanism charges were calculated according to the following formulas:

Quarterly Contribution Base

The quarterly contribution base is a portion of your quarterly revenue that USAC considers when determining your quarterly Universal Service Fund contribution. The quarterly contribution base equals your interstate plus international revenue. Your current quarterly contribution base equals:

$$\frac{\$ 3,628.77}{\text{Interstate Revenue (Line 120B)}} + \frac{\$ 0.00}{\text{International Revenue (Line 120C)}} = \frac{\$ 3,628.77}{\text{Quarterly Contribution Base}}$$

Adjusted Quarterly Contribution

USAC adjusts carriers' quarterly contribution bases by the amount that they are expected to contribute in that quarter. The calculation for an adjusted contribution amount is as follows, and takes into account the circularity deduction:

$$\frac{\$ 3,628.77}{\text{Quarterly Contribution Base}} * \frac{0.161000}{\text{FCC Contribution Factor}} = \frac{\text{Unadjusted Contribution}}$$

$$\frac{\text{Unadjusted Contribution}}{\text{Unadjusted Contribution}} - \left(\frac{\text{Unadjusted Contribution}}{\text{Unadjusted Contribution}} * \frac{0.137912}{\text{FCC Circularity Factor}} \right) = \frac{\text{Adjusted Contribution}}$$



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Interest & DCIA Penalties

A DELINQUENT DEBT incurs interest at the annual rate equal to the U.S. prime rate as of the DATE OF DELINQUENCY plus 3.5 percent from that DATE until the DEBT is paid in full. Any portion of the DEBT unpaid more than 90 days, incurs a penalty of 6 percent a year from the DATE OF DELINQUENCY. The reverse of the Invoice provides more information on interest, penalties, and administrative charges.

Description - Debt Due Date	Principal	Payment/ Credit Date	Interest Rate	Days Late	Additional Interest (B* (D/365)*E)	Accrued Interest	Total Interest (F+G)	Payment & Credits Applied	Interest Outstanding	Principal Outstanding
A	B	C	D	E	F	G	H	I	J	K
Outstanding Items										
*UBDI0000554838 - 6/15/2012	\$2,400.00		6.75%	31	\$13.76	\$94.97	\$108.73		\$108.73	\$2,400.00
	DCIA Penalty		6.00%	31	\$12.23	\$84.45	\$96.68		\$96.68	
*UBDI0000559788 - 7/13/2012	\$1,000.00		6.75%	31	\$5.72	\$34.38	\$40.10		\$40.10	\$1,000.00
	DCIA Penalty		6.00%	31	\$5.10	\$30.60	\$35.70		\$35.70	
UBDI0000607147 - 3/15/2013	\$8,400.00		0.00%	0	\$0.00	\$0.00	\$0.00		\$0.00	\$8,400.00
					\$36.81			\$0.00	\$281.21	\$11,800.00
										Principal Outstanding
										\$11,800.00
										Interest & Penalties
										\$281.21
										Total Amount Due
										\$12,081.21

* The debt identified by an asterisk is over 120 days delinquent and will be transferred to the United States Department of the Treasury or the United States Department of Justice for collection if not fully paid to USAC by the end of the month.